

§ 3186.500

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 3186, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

Subpart E—Violations of this Part and Consequences

§ 3186.500 Who in the IMLS determines that a recipient other than an individual violated the requirements of this part?

The IMLS Chief Financial Officer is the official authorized to make the determination under 2 CFR 182.500.

§ 3186.505 Who in the IMLS determines that a recipient who is an individual violated the requirements of this part?

The IMLS Chief Financial Officer is the official authorized to make the determination under 2 CFR 182.505.

PART 3187—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

3187.1 Adoption of 2 CFR part 200.

Subpart A—Definitions and Eligibility

3187.2 Applicable regulations and scope of this part.

3187.3 Definition of a museum.

3187.4 Other definitions.

3187.5 Museum eligibility and burden of proof—Who may apply.

3187.6 Related institutions.

3187.7 Basic materials which an applicant must submit to be considered for funding.

Subpart B—General Application, Selection and Award Procedures

APPLICATIONS

3187.8 Deadline date and method for submitting applications.

SELECTION AND AWARD PROCEDURES

3187.9 Rejection of an application.

2 CFR Ch. XXXI (1-1-16 Edition)

3187.10 Rejection for technical deficiency—appeal.

Subpart C—General Conditions Which Must Be Met

COMPLIANCE WITH LEGAL REQUIREMENTS

3187.11 Compliance with statutes, regulations, approved application and Federal award.

NONDISCRIMINATION

3187.12 Federal statutes and regulations on nondiscrimination.

EVALUATION

3187.13 Federal evaluation—Cooperation by a non-Federal entity.

ALLOWABLE COSTS

3187.14 Subawards

3187.15 Allowable costs.

AUTHORITY: 20 U.S.C. 9101-9176, 9103(h); 20 U.S.C. 80r-5; 2 CFR part 200.

SOURCE: 79 FR 76088, Dec. 19, 2014, unless otherwise noted.

§ 3187.1 Adoption of 2 CFR Part 200.

Under the authority listed above, the Institute of Museum and Library Services (IMLS) adopts the Office of Management and Budget (OMB) Guidance in 2 CFR part 200, with the additions that are provided below. Thus, this part gives regulatory effect to the OMB guidance and supplements the guidance as needed for IMLS.

Subpart A—Scope, Definitions, and Eligibility

§ 3187.2 Applicable regulations and scope of this part.

(a) Except as set forth in this 2 CFR part 3187, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR part 200 shall apply to awards from funds appropriated to the Institute of Museum and Library Services (the “Institute” or “IMLS”).

(b) The IMLS authorizing statutes, including 20 U.S.C. 9101 *et seq.* and 20 U.S.C. 80r-5, (“IMLS Statutes”) are controlling in the event of any conflict between the IMLS Statutes and the regulations in 2 CFR part 200.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

§ 3187.4

§ 3187.3 Definition of a museum.

For the purpose of this part:

(a) Museum means a public or private nonprofit institution which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff:

(1) Owns or uses tangible objects, either animate or inanimate;

(2) Cares for these objects; and

(3) Exhibits them to the general public on a regular basis.

(i) An institution that exhibits objects to the general public for at least 120 days a year shall be deemed to meet this requirement.

(ii) An institution that exhibits objects by appointment may meet this requirement if it can establish, in light of the facts under all the relevant circumstances, that this method of exhibition does not unreasonably restrict the accessibility of the institution's exhibits to the general public.

(b) The term "museum" in paragraph (a) of this section includes museums that have tangible and digital collections. Museums include, but are not limited to, the following types of institutions, if they otherwise satisfy the provisions of this section:

(1) Aquariums;

(2) Arboretums;

(3) Botanical gardens;

(4) Art museums;

(5) Children's museums;

(6) General museums;

(7) Historic houses and sites;

(8) History museums;

(9) Nature centers;

(10) Natural history and anthropology museums;

(11) Planetariums;

(12) Science and technology centers;

(13) Specialized museums; and

(14) Zoological parks.

(c) For the purposes of this section, an institution uses a professional staff if it employs at least one staff member, or the fulltime equivalent, whether paid or unpaid primarily engaged in the acquisition, care, or exhibition to the public of objects owned or used by the institution.

(d)(1) Except as set forth in paragraph (d)(2) of this section, an institution exhibits objects to the general public for the purposes of this section

if such exhibition is a primary purpose of the institution.

(2) An institution that does not have as a primary purpose the exhibition of objects to the general public but which can demonstrate that it exhibits objects to the general public on a regular basis as a significant, separate, distinct, and continuing portion of its activities, and that it otherwise meets the requirements of this section, may be determined to be a museum under this section. In order to establish its eligibility, such an institution must provide information regarding the following:

(i) The number of staff members devoted to museum functions as described in paragraph (a) of this section.

(ii) The period of time that such museum functions have been carried out by the institution over the course of the institution's history.

(iii) Appropriate financial information for such functions presented separately from the financial information of the institution as a whole.

(iv) The percentage of the institution's total space devoted to such museum functions.

(v) Such other information as the Director requests.

(3) The Director uses the information furnished under paragraph (d)(2) of this section in making a determination regarding the eligibility of such an institution under this section.

(e) For the purpose of this section, an institution exhibits objects to the public if it exhibits the objects through facilities which it owns or operates.

§ 3187.4 Other definitions.

The following other definitions apply in this part:

Act means The Museum and Library Services Act, Pub. L. 104-208 (20 U.S.C. 9101-9176), as amended.

Collection includes objects owned, used or loaned by a museum as well as those literary, archival and documentary resources specifically required for the study and interpretation of these objects.

Director means the Director of the Institute of Museum and Library Services.

§ 3187.5

Institute or *IMLS* means the Institute of Museum and Library Services established under Section 203 of the Act.

Museum services means services provided by a museum, primarily exhibiting objects to the general public, and including but not limited to preserving and maintaining its collections, and providing educational and other programs to the public through the use of its collections and other resources.

§ 3187.5 Museum eligibility and burden of proof—Who may apply.

(a) A museum located in any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau may apply for a Federal award under the Act.

(b) A public or private nonprofit agency which is responsible for the operation of a museum may, if necessary, apply on behalf of the museum.

(c) A museum operated by a department or agency of the Federal Government is not eligible to apply.

(d) An applicant has the burden of establishing that it is eligible for assistance under these regulations.

§ 3187.6 Related institutions.

(a) If two or more institutions are under the common control of one agency or institution or are otherwise organizationally related and apply for assistance under the Act, the Director determines under all the relevant circumstances whether they are separate museums for the purpose of establishing eligibility for assistance under these regulations. *See* § 3187.5 (Museum eligibility and burden of proof—Who may apply).

(b) IMLS regards the following factors, among others, as showing that a related institution is a separate museum:

- (1) The institution has its own governing body;
- (2) The institution has budgetary autonomy; and
- (3) The institution has administrative autonomy.

2 CFR Ch. XXXI (1–1–16 Edition)

§ 3187.7 Basic materials which an applicant must submit to be considered for funding.

(a) *Application*. To apply for an IMLS Federal award, an applicant must submit the designated application form containing all information requested.

(b) *IRS letter*. An applicant applying as a private, nonprofit institution must submit a copy of the letter from the Internal Revenue Service indicating the applicant's eligibility for nonprofit status under the applicable provision of the Internal Revenue Code of 1954, as amended.

Subpart B—General Application, Selection and Award Procedures

APPLICATIONS

§ 3187.8 Deadline date and method for submitting applications.

(a) The notice of funding opportunity sets the deadline date and method(s) for applications to be submitted to the Institute.

(b) If the application notice permits mailing of an application, an applicant must be prepared to show one of the following as proof of timely mailing:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director.

(c) If the application notice permits mailing of an application, and the application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing:

- (1) A private metered postmark.
- (2) A mail receipt that is not date cancelled by the U.S. Postal Service.

SELECTION AND AWARD PROCEDURES

§ 3187.9 Rejection of an application.

(a) The Director rejects an application if:

- (1) The applicant is not eligible;
- (2) The applicant fails to comply with procedural rules that govern the submission of the application;

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

§3187.14

(3) The application does not contain the information required;

(4) The application cannot be funded under the authorizing statute or implementing regulations.

(b) If the Director rejects an application under this section, the Director informs the applicant and explains why the application was rejected.

§3187.10 Rejection for technical deficiency—appeal.

An applicant whose application is rejected because of technical deficiency may appeal such rejection in writing to the Director within 10 business days of electronic or postmarked notice of rejection, whichever is earlier.

Subpart C—General Conditions Which Must Be Met

COMPLIANCE WITH LEGAL REQUIREMENTS

§3187.11 Compliance with statutes, regulations, approved application and Federal award.

(a) A recipient and subrecipient, as applicable, shall comply with the rel-

evant statutes, regulations, and the approved application and Federal award, and shall use Federal funds in accordance therewith.

(b) No act or failure to act by an official, agent, or employee of the Institute can affect the authority of the Director to enforce regulations.

(c) In any circumstance for which waiver is provided, the determination of the Director shall be final.

NONDISCRIMINATION

§3187.12 Federal statutes and regulations on nondiscrimination.

(a) Each recipient and subrecipient, as applicable, shall comply with the relevant nondiscrimination statutes and public policy requirements including, but not limited to, the following:

Subject	Statute
Discrimination on the basis of race, color or national origin	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d through 2000d-4).
Discrimination on the basis of sex	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1683).
Discrimination on the basis of disability	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).
Discrimination on the basis of age	The Age Discrimination Act (420 U.S.C. 8101 <i>et. seq.</i>)

(b) *Regulations under section 504 of the Rehabilitation Act of 1973.* The Institute applies the regulations in 45 CFR part 1170, issued by the National Endowment for the Humanities and relating to nondiscrimination on the basis of handicap in federally assisted programs and activities, in determining the compliance with section 504 of the Rehabilitation Act of 1973 as it applies to recipients of Federal financial assistance from the Institute. These regulations apply to each program or activity that receives such assistance. In applying these regulations, references to the *Endowment* or the *agency* shall be deemed to be references to the Institute and references to the *Chairman* shall be deemed to be references to the Director.

EVALUATION

§3187.13 Federal evaluation—Cooperation by a non-Federal entity.

A non-Federal entity shall cooperate in any evaluation by the Director of the particular IMLS Federal financial assistance program in which the non-Federal entity has participated.

ALLOWABLE COSTS

§3187.14 Subawards.

(a) A recipient may not make a subaward unless expressly authorized by the Institute. In the event the Institute authorizes a subaward, the recipient shall:

(1) Ensure that the subaward includes any clauses required by Federal law as

§ 3187.15

well as any program-related conditions imposed by the Institute;

(2) Ensure that the subrecipient is aware of the applicable legal and program requirements; and

(3) Monitor the activities of the subrecipient as necessary to ensure compliance with Federal law and program requirements.

(b) A recipient may contract for supplies, equipment, and services, subject to applicable law, including but not limited to applicable Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR part 200.

2 CFR Ch. XXXI (1–1–16 Edition)**§ 3187.15 Allowable costs.**

(a) Determination of costs allowable under a Federal award is made in accordance with the government-wide cost principles in the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR part 200.

(b) No costs shall be allowed for the purchase of any object to be included in the collection of a museum, except library, literary, or archival material specifically required for a designated activity under a Federal award under the Act.

PARTS 3188–3199 [RESERVED]